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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/520,756

07/13/2005

Leandre Adifon

60469-193; OT-5003

5071

26584

7590

03/18/2009

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INTELLECTUAL PROPERTY DEPARTMENT
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EXAMINER

PICO, ERIC E

ART UNIT

PAPER NUMBER

3654

MAIL DATE

DELIVERY MODE

03/18/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/520,756
Filing Date: July 13, 2005
Appellant(s): ADIFON ET AL.

David J. Gaskey
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/08/2008 appealing from the Office action mailed 07/29/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

EP 646537 A1	HAKOLA	5-1995
JP 2000-177949 A	TOSHIYUKI ET AL.	6-2000
6,405,834	CHIDA ET AL.	5-2002

5,271,455	SEMPLE	12-1993
6,305,499	JONES ET AL.	10-2001
JP 07097157 A	KIHACHIRO	4-1995

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. **Claim(s) 19, 33, and 40** is/are rejected under 35 U.S.C. 102(b) as being anticipated by Hakola EP Publication No. 0646537.
2. **Regarding claim 19**, Hakola discloses an elevator system comprising:
 - a cab adapted to carry a load between different levels of a building;
 - a machine assembly 4 secured to a roof surface on the building, shown in Figure 2, and having a drive sheave 12 that causes movement of an elongated tension member 13 such that the cab moves as desired and a motor 8 that moves the drive sheave 12;
 - a cover 49 removably secured over the machine assembly 4 to cover over the machine assembly 4; and
 - a support base 2 that is distinct from and secured to the roof surface, shown in Figure 2, the support base 2 supports the machine assembly 4, the cover 48, 49 being directly secured to and selectively removable from the support base 2, wherein the support base 2 includes a first generally planar surface with a plurality of side portions, 26 connected to and extending away from the surface, and wherein the cover 49 includes a corresponding plurality of side walls 48 that are received against the side portions 26 when the cover 49 is secured to the support base 2 such that one of the side portions 26 of the support base 2 and the side walls 48 of

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the cover 49 surround and at least partially overlap the other of the side portions 26 of the support base 2 and the side walls 48 of the cover 49.

3. **Regarding claim 33**, Hakola discloses an assembly for housing elevator system machine components on top of a roof surface of a building without requiring a machine room, comprising:

a support base 2 that is distinct from and adapted to be secured to the roof surface, shown in Figure 2, the support base 2 supporting the machine components 4, and a cover 48, 49 that is selectively secured to the support base 2 to cover the machine components 4 supported on the base 2, wherein the support base 2 includes a first generally planar surface with a plurality of side portions, 26 connected to and extending away from the surface and wherein the cover includes a corresponding plurality of side walls that are received against the side portions 26 when the cover 48, 49 is secured to the support base 2.

4. **Regarding claim 40**, Hakola discloses the machine 4 comprises a motor 8 and a drive sheave 12 that rotates responsive to the motor 8 to move a tension member 13 in a manner that causes a desired elevator cab movement.

5. **Claim(s) 19, 22, 23, 26, 33, 35, 38-40, 43, and 44** is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Toshiyuki et al. JP Publication No. 2000-177949 in view of Hakola EP Publication No. 0646537.

6. **Regarding claim 19**, Toshiyuki et al. discloses an elevator system comprising:
a cab 4 adapted to carry a load between different levels of a building;
a machine assembly 14 secured to a roof surface 8 on the building and having a drive

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sheave that causes movement of an elongated tension member 11 such that the cab 4 moves as desired and a motor that moves the drive sheave;

a cover 20 removably secured over the machine assembly 14 to cover over the machine assembly 14; and

a support base 22 that is distinct from and secured to the roof surface 8, the support base supports the machine assembly 14.

7. Toshiyuki et al. is silent concerning the cover directly secured to and selectively removable from the support base, wherein the support base includes a first generally planar surface with a plurality of side portions, connected to and extending away from the surface, and wherein the cover includes a corresponding plurality of side walls that are received against the side portions of the support base when the cover is secured to the support base such that one of the side portions of the support base and the side walls of the cover surround and at least partially overlap the other of the side portions of the support base and the side walls of the cover.

8. Hakola teaches an elevator system comprising:

a cab adapted to carry a load between different levels of a building;

a machine assembly 4 secured to a roof surface on the building, shown in Figure 2, and having a drive sheave 12 that causes movement of an elongated tension member 13 such that the cab moves as desired and a motor 8 that moves the drive sheave 12;

a cover 49 removably secured over the machine assembly 4 to cover over the machine assembly 4; and

a support base 2 that is distinct from and secured to the roof surface, shown in Figure 2,

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the support base 2 supports the machine assembly 4, the cover 49 being directly secured to and selectively removable from the support base 2, wherein the support base 2 includes a first generally planar surface with a plurality of side portions, 26 connected to and extending away from the surface and wherein the cover 49 includes a corresponding plurality of side walls 48 that are received against the side portions 26 of the support base 2 when the cover 49 is secured to the support base 2 such that one of the side portions 26 of the support base 2 and the side walls 48 of the cover 49 surround and at least partially overlap the other of the side portions 26 of the support base 2 and the side walls 48 of the cover 49.

9. It would have been obvious to one of ordinary skill in the art at the time of the invention to directly secure and selectively remove the cover as taught by Hakola from the support base disclosed by Toshiyuki et al. to facilitate the construction and the installation of the machine assembly.

10. **Regarding claim 22**, Toshiyuki et al. discloses the side portions 8A are exterior to the side walls when the cover 20 is secure to the support base 22, shown in Figure 2.

11. **Regarding claim 23**, Toshiyuki et al. discloses an controller, referred to as control panel 21, that controls the motor 14 supported beneath the cover 20.

12. Toshiyuki et al. is silent concerning the controller to be an electronic controller. It would have been obvious to one of ordinary in the art at the time of the invention was made to make the controller disclosed by Toshiyuki et al. an electronic controller to easily control the motor.

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13. **Regarding claim 26, 35, and 43**, Toshiyuki et al. discloses the cover has a top surface and a plurality of side walls extending away from edges of the top surface.

Toshiyuki et al. is silent concerning the height of the cover from the roof surface is less than one meter when the cover is secured in place. It would have been obvious to one of ordinary in the art at the time of the invention was made to make the cover with a height that is less than one meter, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ (CCPA 1980).

14. **Regarding claim 33**, Toshiyuki et al. discloses an assembly for housing elevator system machine 14 components on top of a roof surface 8 of a building without requiring a machine room, comprising:

a support base 22, that is distinct from and adapted to be secured to the roof surface 8, the support base 22 supporting the machine components 14; and

a cover 20 that is selectively secured to cover the machine components 14 supported on the base 22.

15. Toshiyuki et al. is silent concerning the cover selectively secured to the support base, wherein the support base includes a first generally planar surface with a plurality of side portions, connected to and extending away from the surface, and wherein the cover includes a corresponding plurality of side walls that are received against the side portions of the support base when the cover is secured to the support base such that one of the side portions of the support base and the side walls of the cover surround

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and at least partially overlap the other of the side portions of the support base and the side walls of the cover.

16. Hakola teaches an assembly for housing elevator system machine components on top of a roof surface of a building without requiring a machine room, comprising: a support base 2 that is distinct from and adapted to be secured to the roof surface, shown in Figure 2, the support base 2 supporting the machine components 4; and a cover 49 that is selectively secured to the support base 2 to cover the machine components 4 supported on the base 2,

wherein the support base 2 includes a first generally planar surface with a plurality of side portions, 26 connected to and extending away from the surface, and

wherein the cover 49 includes a corresponding plurality of side walls 48 that are received against the side portions 26 of the base 2 when the cover 49 is secured to the support base 2 such that one of the side portions 26 of the support base 2 and the side walls 48 of the cover 49 surround and at least partially overlap the other of the side portions 26 of the support base 2 and the side walls 48 of the cover 49.

17. It would have been obvious to one of ordinary skill in the art at the time of the invention to selectively secure the cover disclosed by Toshiyuki et al. to the support base as taught by Hakola to facilitate the construction and the installation of the machine assembly

18. **Regarding claim 38**, Toshiyuki et al. discloses the side portions 8A are exterior to the side walls when the cover 20 is secured to the support base 22.

19. **Regarding claim 39**, Toshiyuki et al. discloses the cover 20 is removable.

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20. Toshiyuki et al. is silent concerning the entire cover being removable. It would have been obvious to one of ordinary in the art at the time of the invention was made to make the entire cover being removable to facilitate easier access to the motor and other components under the cover.

21. **Regarding claim 40**, Toshiyuki et al. discloses the machine 14 comprises a motor and a drive sheave that rotates responsive to the motor to move a tension member 11 in a manner that causes a desired elevator cab 4 movement.

22. **Regarding claim 44**, Toshiyuki et al. discloses the support base comprises a single piece 8A of material that establishes the first generally planar surface and the plurality of side portions.8A.

23. **Claim(s) 24, 25, and 34** is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Toshiyuki et al. JP Publication No. 2000-177949 in view of Hakola EP Publication No. 0646537 as applied to claims 19 and 33 above, and further in view of Chida et al. U.S. Patent No. 6405834.

24. **Regarding claim 24 and 34**, Toshiyuki et al. is silent concerning the cover includes an access opening through the cover and a cover portion that selectively closes off the access opening.

25. Chida et al. teaches a cover, referred to maintenance operation panel 10, includes an access opening through the cover 10 and a cover portion, referred to as face plate 11, that selectively closes off the access opening. It would have been obvious to one of ordinary skill in the art at the time of the invention to include an access

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opening and a cover portion as taught by Chida et al. to the cover disclosed by Toshiyuki et al. to facilitate access to equipment within the cover.

26. **Regarding claim 25**, Toshiyuki et al. is silent concerning the cover includes a portion that is moveable relative to another portion of the cover to provide access to at least some of the machine assembly. Chida et al. teaches a cover 10 includes a portion 11 that is moveable relative to another portion of the cover 10 to provide access to a maintenance driving control apparatus. It would have been obvious to one of ordinary skill in the art at the time of the invention to include a portion as taught by Chida et al. that is moveable relative to another portion of the cover disclosed by Toshiyuki et al. to facilitate access to equipment within the cover.

27. **Claim(s) 27 and 36** is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Toshiyuki et al. JP Publication No. 2000-177949 in view of Hakola EP Publication No. 0646537 as applied to claims 19 and 33 above, and further in view of Semple U.S. Patent No. 5271455.

28. **Regarding claim 27 and 36**, Toshiyuki et al. is silent concerning a temperature control device associated with the machine assembly and support base for controlling the temperature within the space covered by the cover. Semple teaches a temperature control device. It would have been obvious to one of ordinary skill in the art at the time of the invention to associate the machine assembly and support base disclosed by Toshiyuki et al. with a temperature control device as taught by Semple to keep the elevator equipment at their operating temperatures thus reducing failure.

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29. **Claim(s) 28 and 42** is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Toshiyuki et al. JP Publication No. 2000-177949 in view of Hakola EP Publication No. 0646537 as applied to claims 19 and 33 above, and further in view of Jones et al. U.S. Patent No. 6305499.

30. **Regarding claim 28 and 42**, Toshiyuki et al. is silent concerning tension members comprises a flat belt.

31. Jones et al. teaches tension members comprise a flat belt 16. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the tension members disclosed by Toshiyuki et al. flat belts as taught by Jones et al. to facilitate traction between the tension member and sheave.

32. **Claim(s) 29** is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Toshiyuki et al. JP Publication No. 2000-177949 in view of Hakola EP Publication No. 0646537 and Jones et al. U.S. Patent No. 6305499 as applied to claim 28 above, and further in view of Kihachiro JP Publication No. 07-097157.

33. **Regarding claim 29**, Toshiyuki et al. discloses a tension member 11 and a plurality of terminations 13, 15 supporting the ends 12, 16 of the tension member. Toshiyuki et al. is silent concerning a plurality of flat belts and a plurality of terminations supporting the ends of the belts, the terminations being covered by the cover.

34. Jones et al. teaches a flat belt 16 and terminations supporting the ends of the belts 16. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the tension members disclosed by Toshiyuki et al. flat belts as taught by Jones et al. to facilitate traction between the tension member and sheave.

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35. Kihachiro teaches a termination being covered over by a cover 3. It would have been obvious to one of ordinary skill in the art at the time of the invention to fix the terminations disclosed by Toshiyuki et al. under a cover as taught Kihachiro to fix the terminations to the roof while protecting the terminations from damage.

36. **Claim(s) 30-32 and 41** is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Toshiyuki et al. JP Publication No. 2000-177949 in view of Hakola EP Publication No. 0646537 as applied to claims 19 and 40 above, and further in view of Kihachiro JP Publication No. 07-097157.

37. **Regarding claim 30**, Toshiyuki et al. discloses a termination 13, 15 supporting the ends 12, 16 of the tension member 11.

38. Toshiyuki et al. is silent concerning terminations the cover covers the termination.

39. Kihachiro teaches a termination, shown in Figures 1 and 5, supporting an end of a tension member 13 and wherein a cover 3 covers the termination. It would have been obvious to one of ordinary skill in the art at the time of the invention to fix the terminations disclosed by Toshiyuki et al. under a cover as taught Kihachiro to fix the terminations to the roof while protecting the terminations from damage.

40. **Regarding claim 31**, Toshiyuki et al. discloses a plurality of terminations 13, 15. Toshiyuki et al. is silent concerning a plurality of tension members and a plurality of terminations with each termination being covered by the cover. Kihachiro teaches tension members 13 a termination, shown in Figures 1 and 5, with the termination being covered by a cover 3. It would have been obvious to one of ordinary in the art at the

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time of the invention was made to provide a plurality of tension members and a plurality of terminations to facilitate lifting of the elevator car.

41. **Regarding claim 32**, Toshiyuki et al. is silent concerning the cover having a height of less than one meter. It would have been obvious to one of ordinary in the art at the time of the invention was made to make the cover with a height of less than one meter because a one meter cover would be sufficiently large to cover most commonly sized hoisting machines. Further, it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ (CCPA 1980).

42. **Regarding claim 41**, Toshiyuki et al. discloses terminations 12, 16 that support the ends 13, 15 of the tension members 11.

43. Toshiyuki et al. is silent concerning the termination is at least partially contained between the support base and the cover. Kihachiro teaches a termination contained between a support base and a cover 3. It would have been obvious to one of ordinary skill in the art at the time of the invention to fix the terminations disclosed by Toshiyuki et al. under a cover as taught Kihachiro to fix the terminations to the roof while protecting the terminations from damage.

(10) Response to Argument

44. Applicant's arguments filed 12/08/2008 have been fully considered but they are not persuasive.

45. In response to applicant's argument, "The overlapping side portions and side walls of Appellants claimed arrangement that are received against each other cannot be

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found in Hakola reference. Overlapping, by definition, requires a configuration where one part extends over and partially covers the other” this argument is without merit.

Applicant has narrowly construed overlapping to only exist within a horizontal plane.

The side walls 48 at least partially overlap side portions 26 in the vertical plane as shown in applicant's figure.



46. Similarly, elements of any vertically stacked structure all overlap one another in a vertical plane. Therefore, a reasonable interpretation of Hakola EP Publication No. 0646537 clearly discloses overlapping side portions 26 and side walls 48.

47. In response to applicant's argument, "If the Examiner wants to contend that one of the elements 26 or 48 somehow surrounds the other, then it is not possible to say they overlap"; this argument is without merit. As discussed above sidewalls 26 are overlapped with sides 48. Hakola EP Publication No. 0646537 further discloses side walls 48 surrounding the top perimeter of the side portions of the support base and shaft walls 44 surrounding the bottom perimeter of the side portions of the support base. Therefore, a reasonable interpretation of Hakola EP Publication No. 0646537 clearly

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discloses side walls 48 of the cover 49 surround the other of the side portions 26 of the support base.

48. Applicant's final feature that the plurality of side walls are received against the side portions of the base is not contended in applicant's Appeal Brief, but if in fact it is contended Hakola EP Publication No. 0646537 clearly shows the entire top structure received on the side portions 26.

49. In conclusion a reasonable interpretation of Hakola EP Publication No. 0646537 discloses all three features that applicant argues. Therefore, a prima facie case of anticipation exists. Appellant provides no additional separate arguments regarding the other ground(s) of rejection in this application and therefore these rejections should be sustained for the same reasons set forth above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Eric E. Pico

/Peter M. Cuomo/

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